

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF THE FEDERAL COMMUNICATIONS	)	
COMMISSION'S TRIENNIAL REVIEW ORDER	)	CASE NO.
REGARDING UNBUNDLING REQUIREMENTS	)	2003-00379
FOR INDIVIDUAL NETWORK ELEMENTS	)	

**BELLSOUTH TELECOMMUNICATIONS, INC.'S  
MOTION TO COMPEL AND  
TO REVISE CERTAIN FILING DATES**

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this Motion seeking an order from the Kentucky Public Service Commission ("Commission") compelling various Competing Local Exchange Carriers ("CLECs") to respond to BellSouth's discovery in this docket. BellSouth also requests certain adjustments in the procedural schedule which are necessary as a result of certain CLECs' delays or failure to provide requested information.

In this proceeding, the Federal Communications Commission ("FCC") has directed this Commission to conduct a comprehensive examination of whether CLECs are impaired in Kentucky without access to unbundled switching, high capacity loops, and dedicated transport from BellSouth. As part of this examination, the Commission must determine whether CLECs are providing local exchange service to "mass market customers" using their own switching and, if so, where those mass market customers are located. Additionally, the Commission must examine with granularity if CLECs are impaired without access to high capacity loops and/or dedicated transport.

Many may have the impression that BellSouth, as an ILEC, already knows all of the details regarding switches, high capacity loops and dedicated transport. BellSouth has some information which it has attempted to utilize to understand the competitive landscape in Kentucky. Besides utilizing the information available to BellSouth, the Company also has purchased data from GeoResults, Inc. and served Requests for Admissions in an effort to avoid undue inconvenience to other CLECs in initially gathering all of the necessary information. The simple fact remains, however, that the CLECs themselves are the best source of information concerning the specifics of their network, its serving arrangements, and their customers. For that reason, it is critical that the Commission require CLECs, whether or not they choose to otherwise participate in this docket to respond to BellSouth's discovery requests.

This Commission issued procedural orders in this case on October 2, 2003, and November 4, 2003. BellSouth has served discovery requests on various CLECs that may be providing local exchange service to mass market customers in Kentucky via their own facilities. On October 10 and November 10, 2003, BellSouth filed motions requesting that the Commission require the various carriers to provide information in this case. To date, a number of these carriers have simply ignored or otherwise failed to respond to BellSouth's discovery requests. BellSouth is requesting the Commission to enter an order compelling the CLECs below to fully and completely respond to these

requests.<sup>1</sup> Some carriers have been in communications with BellSouth and are discussing whether they can provide sufficient information.<sup>2</sup>

BellSouth served its discovery requests in this proceeding in an attempt to obtain directly from the CLECs this information as well as other facts relevant to this case. There can be no doubt that this Commission has the authority to require CLECs, regardless of whether they have opted to participate in this proceeding, to provide the information necessary for the Commission to make the determinations with which it is charged.

This Commission and the parties are operating under very tight timeframes, and, consistent with the FCC's rules, this Commission must conclude this proceeding within nine months. In order to meet this deadline, the Commission entered a Procedural and Scheduling Order that requires the parties to file direct testimony by February 11, 2004. For BellSouth to make any use of the information requested from the CLECs in its testimony, BellSouth respectfully requests the Commission to consider this Motion to Compel as quickly as possible. Because of the fact that discovery responses have either not been received or were not comprehensive responses, BellSouth also respectfully requests an adjustment in the schedule as follows:

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<sup>1</sup> The specific carriers that should be compelled to respond to BellSouth's discovery are: Dialog Telecommunications, Inc.; East Kentucky Network, LLC; e-Tel, LLC; ICG Telecom Group, Inc.; Kentucky Data Link, Inc. d/b/a Cinergy Networks; NewSouth Communications Corp.; North Central Communications, Inc.; Adelphia Business Solutions, d/b/a Telcove; Electric and Water Plant Board of the City of Frankfort; Xspedius Management Company of Louisville, LLC; Bardstown City of Cable TV; Bowling Green Municipal Utilities; Hopkinsville Electric System; Murray Electric System; Owensboro Municipal Utilities; Paducah Power System; Henderson Municipal Power and Light. On or about January 26, 2004, BellSouth sent follow-up letters to these CLECs reminding them that BellSouth has not received a response from them. Copy of sample letter attached. Of course, BellSouth will be happy to withdraw this motion as to any CLECs who choose to respond voluntarily to BellSouth's discovery requests.

<sup>2</sup> Brandenburg Telecom, LLC; Lightyear Telecommunications, LLC; and South Central Telcom, LLC have been in contact with BellSouth about responses. BellSouth certainly is willing to discuss with any other carriers as well the data requested and whether providing certain threshold information would be sufficient in some cases.

- A delay for filing of direct testimony related to loop and transport.  
BellSouth needs at least 30 additional days to file that testimony if discovery responses to BellSouth's data requests are ordered on an expedited schedule, or 45 days if they are not expedited.
- The opportunity to supplement its direct testimony on switching issues as a result of discovery responses received from those CLECs who have not yet responded.
- Other filing deadlines also should be appropriately revised. The following revised dates are proposed:

Direct Testimony – Switching issues only	Remains February 11, 2004, but supplemented if necessary
Direct Testimony – Loop & Transport	March 25, 2003
Rebuttal Testimony - Switching	
Rebuttal Testimony – Loop & Transport	April 13, 2003

This case is an extraordinary proceeding. For the Commission to make the determinations necessary, extensive and fact intensive data must be provided to this Commission. BellSouth respectfully requests the Commission's assistance in developing an adequate record to make a supportable decision.

For the foregoing reasons, the Commission should grant BellSouth's Motion and enter an order requiring the carriers noted to respond to BellSouth's discovery. The Commission also should modify the schedule as requested herein.

Respectfully submitted, this 30th day of January, 2004.

A handwritten signature in black ink, appearing to read "Dorothy J. Chambers", written over a horizontal line.

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January 26, 2004

Ms. Laura Phipps  
East Kentucky Network LLC  
d/b/a Appalachian Wireless  
355 Village Drive  
P.O. Box 405  
Prestonsburg, KY 41653

Re: Review of Federal Communications Commission's Triennial Review  
Order Regarding Unbundling Requirements for Individual Network  
Elements  
PSC 2003-00379

Dear Ms. Phipps:

BellSouth served its First Set of Discovery in this case on October 10, 2003, and its Second Set of Discovery on November 24, 2003. As of today, BellSouth has not received a response to either set from East Kentucky Network LLC.

BellSouth filed motions with the Commission on October 10, 2003 and November 24, 2003 asking the Commission to require carriers to respond to BellSouth's discovery. These motions are pending before the Commission at this time. BellSouth believes if the Commission is to make the determinations in this case, it is essential that East Kentucky Network LLC respond to BellSouth's discovery. BellSouth would prefer that responses were provided voluntarily; however, if East Kentucky Network LLC does not respond, BellSouth will have to file a Motion to Compel.

BellSouth respectfully requests that you promptly respond to BellSouth's discovery.

Very truly yours,

  
Dorothy J. Chambers

cc: Mr. Thomas M. Dorman  
Executive Director, Kentucky Public Service Commission